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Attorneys for Plaintiff
Cindy A. Melvin

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

| | | |
|----------------------------------|---|----------------------------------|
| CINDY A. MELVIN, |) | Case No.: 3:16-cv-00074-MMD-VPC |
| |) | |
| Plaintiff, |) | STIPULATION FOR THE AWARD |
| |) | AND PAYMENT OF ATTORNEY |
| vs. |) | FEES AND EXPENSES PURSUANT |
| |) | TO THE EQUAL ACCESS TO |
| CAROLYN W. COLVIN, Acting |) | JUSTICE ACT, 28 U.S.C. § 2412(d) |
| Commissioner of Social Security, |) | AND COSTS PURSUANT TO 28 |
| |) | U.S.C. § 1920 |
| Defendant. |) | |
| |) | |
| |) | |

TO THE HONORABLE VALERIE P COOKE, MAGISTRATE JUDGE
OF THE DISTRICT COURT:

IT IS HEREBY STIPULATED by and between the parties through their undersigned counsel, subject to the approval of the Court, that Cindy A. Melvin be awarded attorney fees in the amount of Two Thousand Nine Hundred dollars (\$2,900.00) and costs in the amount of Fifteen dollars and Five cents (\$15.05) under 28 U.S.C. § 1920. This amount represents compensation for all legal services rendered on behalf of Plaintiff by counsel in connection with this civil action, in accordance with 28 U.S.C. §§ 1920; 2412(d).

1 After the Court issues an order for EAJA fees to Cindy A. Melvin, the
2 government will consider the matter of Cindy A. Melvin's assignment of EAJA
3 fees to Marc V. Kalagian. The retainer agreement containing the assignment is
4 attached as exhibit 1. Pursuant to *Astrue v. Ratliff*, 130 S.Ct. 2521, 2529 (2010),
5 the ability to honor the assignment will depend on whether the fees are subject to
6 any offset allowed under the United States Department of the Treasury's Offset
7 Program. After the order for EAJA fees is entered, the government will determine
8 whether they are subject to any offset.

9 Fees shall be made payable to Cindy A. Melvin, but if the Department of
10 the Treasury determines that Cindy A. Melvin does not owe a federal debt, then the
11 government shall cause the payment of fees, expenses and costs to be made
12 directly to Law Offices of Rohlfing & Kalagian, LLP, pursuant to the assignment
13 executed by Cindy A. Melvin.¹ Any payments made shall be delivered to Marc V.
14 Kalagian.

15 This stipulation constitutes a compromise settlement of Cindy A. Melvin's
16 request for EAJA attorney fees, and does not constitute an admission of liability on
17 the part of Defendant under the EAJA or otherwise. Payment of the agreed amount
18 shall constitute a complete release from, and bar to, any and all claims that Cindy
19 A. Melvin and/or Marc V. Kalagian including Law Offices of Rohlfing &
20 Kalagian, LLP may have relating to EAJA attorney fees in connection with this
21 action.

22 This award is without prejudice to the rights of Marc V. Kalagian and/or the
23 Law Offices of Rohlfing & Kalagian, LLP to seek Social Security Act attorney
24

25 ¹ The parties do not stipulate whether counsel for the plaintiff has a cognizable lien
26 under federal law against the recovery of EAJA fees that survives the Treasury
Offset Program.

1 fees under 42 U.S.C. § 406(b), subject to the savings clause provisions of the
2 EAJA.

3 DATE: October 11, 2016 Respectfully submitted,

4 LAW OFFICES OF ROHLFING & KALAGIAN, LLP

5 */s/ Marc V. Kalagian*

6 BY: _____

Marc V. Kalagian

7 Attorney for plaintiff Cindy A. Melvin

8 DATED: October 11, 2016 DANIEL G. BOGDEN
9 United States Attorney

10 */s/ April A. Alongi*

11 BY: _____

12 APRIL A. ALONGI

13 Special Assistant United States Attorney

14 Attorneys for Defendant Carolyn W. Colvin,

15 Acting Commissioner of Social Security

16 (Per e-mail authorization)

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the county of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 211 E. Ocean Blvd., Ste. 420, Long Beach, CA 90802.

On this day of October 17, 2016, I served the foregoing document described as STIPULATION FOR THE AWARD AND PAYMENT OF ATTORNEY FEES AND EXPENSES PURSUANT TO THE EQUAL ACCESS TO JUSTICE ACT, 28 U.S.C. § 2412(d) AND COSTS PURSUANT TO 28 U.S.C. § 1920 on the interested parties in this action by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

Ms. Cindy A. Melvin
5165 Greeley Avenue
Silver Springs, NV 89429

I caused such envelope with postage thereon fully prepaid to be placed in the United States mail at Long Beach, California.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

I declare that I am employed in the office of a member of this court at whose direction the service was made.

Marc V. Kalagian
TYPE OR PRINT NAME

/s/ Marc V. Kalagian
SIGNATURE

**CERTIFICATE OF SERVICE
FOR CASE NUMBER 3:16-CV-00074-MMD-VPC**

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for this court by using the CM/ECF system on October 11, 2016.

I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system, except the plaintiff served herewith by mail.

/s/ Marc V. Kalagian

Marc V. Kalagian
Attorneys for Plaintiff

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|----------------------------------|---|--------------------------------------|
| CINDY A. MELVIN, |) | Case No.: 3:16-cv-00074-MMD-VPC |
| |) | |
| Plaintiff, |) | {PROPOSED} ORDER AWARDING |
| |) | EQUAL ACCESS TO JUSTICE ACT |
| vs. |) | ATTORNEY FEES AND EXPENSES |
| |) | PURSUANT TO 28 U.S.C. § 2412(d) |
| CAROLYN W. COLVIN, Acting |) | AND COSTS PURSUANT TO 28 |
| Commissioner of Social Security, |) | U.S.C. § 1920 |
| |) | |
| Defendant |) | |
| |) | |
| |) | |

Based upon the parties' Stipulation for the Award and Payment of Equal
Access to Justice Act Fees, Costs, and Expenses:

IT IS ORDERED that fees and expenses in the amount of \$2,900.00 as
authorized by 28 U.S.C. § 2412, and costs in the amount of \$15.05 as authorized
by 28 U.S.C. § 1920, be awarded subject to the terms of the Stipulation.

DATE: October 17, 2016



THE HONORABLE MIRANDA M. DU
U.S. DISTRICT JUDGE